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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/916,792 | 07/27/2001 | Sean James Martin | GB920010043US1 | 8788 |
| 7590 | 09/29/2004 | | EXAMINER | |
| A. Bruce Clay IBM Corporation T81/503 PO Box 12195 Research Triangle Park, NC 27709 | | | BLAIR, DOUGLAS B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2142 | |

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/916,792 | MARTIN ET AL. |
| | Examiner | Art Unit |
| | Douglas B Blair | 2142 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 July 2001.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-40 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-40 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. Claims 1-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-56 of copending Application No. 09/917,536. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in this application are broader versions of those claimed in 09/917,536.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, 19-35, and 39-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,606,661 to Agrawal et al. in view of U.S. Patent Number 6,389,028 to Bondarenko et al..

4. As to claim 1, Agrawal teaches a method for regulating access by users to a scarce resource, said resource being capable of handling multiple concurrent accesses, the method comprising the steps of: receiving a request for access to the scarce resource (col. 3, lines 6-10); determining whether the access level for said scarce resource is at a desired maximum (col. 3,

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lines 6-10); responsive to determining that said access level is at desired maximum, allocating to an access slot said requester (col. 3, lines 6-10); and access being available to said requester when the allocated slot is enabled (col. 3, lines 11-26); however Agrawal does not explicitly teach providing the requester with a notification that a slot has been allocated.

Bondarenko teaches providing a requester with a notification that a slot has been allocated (col. 7, line 20-col. 8, line 11).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Agrawal regarding the queueing of a request with the teachings of Bondarenko regarding providing notification that a slot has been allocated because providing a notification gives a user an idea of when a resource will be available (Bondarenko, col. 3, lines 43-52).

5. As to claim 2, Bondarenko teaches a method of issuing a requester a ticket comprising access slot information, at least a part of the access slot information being used by the requester to determine when the allocated slot is enabled (col. 9, lines 18-54).

6. As to claim 3, Agrawal teaches a method wherein an access slot information comprises a start time for said access slot and an expiry time for an access slot (col. 3, lines 27-42).

7. As to claim 4, Bondarenko teaches downloading an executable program for preventing the requester from attempting to access a scarce resource until said requester's access slot has been enabled (col. 9, lines 18-54).

8. As to claim 5, Bondarenko teaches a method wherein responsive to a requesting requesting access to a scarce resource, determining whether an access slot is enabled; and responsive to determining that the slot is enabled, granting access (col. 9, lines 18-54).

9. As to claim 6, Bondarenko teaches a method wherein the re-request presents a ticket issued to the requester upon the first request said ticket denoting an access slot information and using the presented ticket to determine whether access is available to said requester (col. 9, lines 18-54).

10. As to claim 7, Bondarenko teaches diverting a requester to a first server hosting a scarce resource (col. 9, lines 18-54).

11. As to claim 10, Bondarenko teaches a method of tracking the number of users currently accessing the scarce resource (col. 9, lines 18-54); and comparing that number with a predetermined maximum value (col. 9, lines 18-54).

12. As to claim 11, Bondarenko teaches a method of receiving a late request for access to a scarce resource from a requester having missed access when available; determining whether a scarce resource is able to accommodate access by a late requester; and responsive to determining that it is possible to accommodate access, granting access to a requester (col. 9, lines 18-54).

13. As to claim 12, Bondarenko teaches determining the average time spent accessing a scarce resource; and determining the length of the subsequent access slots based on the average time (col. 9, lines 18-54).

14. As to claim 13, Bondarenko teaches determining that said scarce resource comprises a chain of resources (col. 9, lines 18-54).

15. As to claim 14, Bondarenko teaches determining that a requester's slot is at an end; and refusing access to the scarce resource by the requester (col. 9, lines 18-54).

16. As to claim 15, Bondarenko teaches determining that a requester's access slot is an end; determining that a requester has not finished accessing a scarce resource; determining whether a

scarce resource is able to accommodate continued access by said requester; and responsive to determining that a requester is able to accommodate continued access, granting continued access to said requester (col. 9, lines 18-54).

17. As to claim 16, Bondarenko teaches a method wherein the access slot only applies to one of the resources in the chain and any other resource in said chain is accessible whether or not said slot is enabled (col. 9, lines 18-54).

18. As to claim 17, Bondarenko teaches a method of receiving a request for access to a scarce resource; responsive to determining that the requester previously opted to leave said scarce resource early, determining whether the scarce resource can re-accommodate access, granting said requester with access to said scarce resource (col. 9, lines 18-54).

19. Claims 8-9 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,606,661 to Agrawal et al. in view of U.S. Patent Number 6,389,028 to Bondarenko et al. in view of U.S. Patent Number 6,011,537 to Slotznick.

20. As to claims 8-9, the Agrawal-Bondarenko combination does not explicitly teach diverting a request to a second server and providing the requester with entertainment while the resource is not available.

Slotznick teaches diverting a request to a second server and providing the requester with entertainment while the resource is not available (col. 24, line 9-49).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Agrawal-Bondarenko combination regarding queueing requests with the teachings of Slotznick regarding the provision of

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entertainment to a waiting user because entertainment reduces the perceived wait time (Slotnick, col. 1, line 60-col. 2, line 11).

21. As to claims 18-40, they rejected for the same reasons as claims 1-17.

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 703-305-5267. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair

DBB


JACK B. HARVEY
SUPERVISORY PATENT EXAMINER